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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,440	02/26/2004	Mathilde C. Brown	MS1-1494US	5678
22801	7590	09/16/2005		EXAMINER
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201				PALADINI, ALBERT WILLIAM
			ART UNIT	PAPER NUMBER
			2125	

DATE MAILED: 09/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/789,440	BROWN ET AL.
Examiner	Art Unit	
Albert W. Paladini	2125	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 26 February 2004.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-23 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) 14-22 is/are allowed.

6)  Claim(s) 1-13 and 23 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date . . . .  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_ .

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claims 6-13 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01.

### **Claim 6**

The claim recites a general objective of “facilitating design of a scale-invariant virtual data center” and provides a narrative description of some elements involved, but the claim does not recite a logical, sequential methodology.

Although the specification provides a dictionary for the claims, and the claims may be broader than the specification; each claim must be complete and self consistent in itself. For a structural claim, the recitation must describe clearly how all the elements are physically connected together. For a functional claim, the recitation must describe clearly how the elements are physically connected together, and in addition, the sequential logical operation of the element working cooperatively together must be understood. For a method claim, the recitation must describe a sequential operation where each step further limits the previous step. In addition, even though the method claim is procedural, each step must be supported with sufficient physical means for accomplishing the step.

Appropriate correction and clarification is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 6-13, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Hunt (6907395).

On lines 28 through 44 in column 2, Hunt discloses a design tool and a modeling system, which provides service definitions for the functionality of a distributed application in a scale invariant manner.

5. Claims 2-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Kubota (6868454).

From line 66 in column 6 to line 19 in column 7, Kubota discloses implementation of distributed system architecture. Kubota does not explicitly utilize the terminology service definition model. However, the service definition model is implicit in Kubota's disclosure, since Kubota explains that the system defines information on the types of objects and the interfaces. The description of Kubota's system includes all of the functions performed by a service definition model.

On lines 20-41 in column 25, Kubota discloses the process of tracking instances for the deployment and management of distributed applications.

On lines 30-43 in column 3, Kubota teaches the use of Application Programming Interfaces for implementing services.

***Allowable Subject Matter***

6. Claims 14-22 are allowed.
7. The following is a statement of reasons for the indication of allowable subject matter: None of the references cited or the art searched disclose or teach alone or in combination the method of facilitating the design of the virtual design center and the distributed application using the specific methodology recited in claims 14 and 18.

None of the references cited or the art searched disclose or teach alone or in combination the architecture used for distributed applications consisting of the specific layers and functions of each layer as recited in claim 22.

***Relevant Prior Art***

Pancha (6823373) discloses a mobile communication system where a system server hosts an enterprise application on a distributed database at a secure data center and interfaces to enterprise data through a firewall and virtual private network.

Hinson (6829770) discloses an object based event communication system with an object services component, entitled "COM+," of an operating system, and entitled "Microsoft Windows NT Server 5 Briefly described, this software is a scaleable, high-performance network and computer operating system supporting distributed client/server computing, and providing an object execution environment for component applications conforming to COM. The COM+

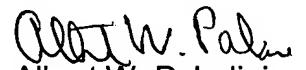
component incorporates object services that implement the illustrated publish and subscribe event communication model according to the invention.

Kuhn (6848109) discloses a system for the coordination of distributed programs, services and data by using application programs in a network of computers where coordination servers are running which serve local software systems, where shared objects are used as communication objects to exchange messages and transactions are used to realize communication, and where the communication objects are uniquely identified by object identification numbers and only processes possessing a reference to a communication object are granted access to it via the corresponding local coordination server.

8. Any inquiry concerning this communication or earlier communication from the examiner should be direct to Albert W. Paladini whose telephone number is (571) 272-3748. The examiner can normally be reached from 7:00 to 3:00 PM on Monday, Tuesday, Thursday, and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Leo P. Picard, can be reached on (571) 272-3749. The official fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

  
Albert W. Paladini  
Primary Examiner  
Art Unit 2125

September 13, 2005